IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

Crl.MC.No. 973 of 2007()

CC.1/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM
CRIME NO.90/2003 OF THE PATTAMBI POLICE STATION

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PETITIONERS/ACCUSED & DEFACTO COMPLAINANT:

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1. ABDUL NAZAR, S/O.NUHAMMED,
NJALUCHIRAKALATHIL HOUSE, CHERUKODE,
VALLAPUZHA, PALAKKAD DISTRICT.

2. MUHAMMED MASTER, S/O.MOIDU MOULAVI (LATE)
NJALUCHIRAKALATHIL HOUSE, CHERUKODE,
VALLAPUZHA, PALAKKAD DISTRICT.

3. AYISHA, W/O.MUHAMMED,
NJALUCHIRAKALATHIL HOUSE, CHERUKODE,
VALLAPUZHA, PALAKKAD DISTRICT.

4. MUHAMMED RASI, S/O.MUHAMMED,
NJALUCHIRAKALATHIL HOUSE, CHERUKODE,
VALLAPUZHA, PALAKKAD DISTRICT.

5. SEENATH, D/O.MUHAMMED,
NJALUCHIRAKALATHIL HOUSE, CHERUKODE,
VALLAPUZHA, PALAKKAD DISTRICT.

6. ABDUL AZEEZ, S/O.MUHAMMEDKUTTY,
ERASSERYTHODI HOUSE, CHERUKODE,
VALLAPUZHA, PALAKKAD DISTRICT.

7. ABOOBACKER SIDDIQUE, S/O.MOIDU MOULAVI(LATE)
NJALUCHIRAKALATHIL HOUSE, CHERUKODE,
VALLAPUZHA, PALAKKAD DISTRICT.

8. SUBAIDA, S/O.LATE MAMMUNNI,
PALENGAL HOUSE, ELAMKULAM,
CHERUKARA, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENT/STATE:

THE STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
PATTAMBI POLICE STATION - THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.973 of 2007

Dated this the 27th day of March 2007

O R D E R

The petitioners 1 to 7 are accused in a prosecution under Section 498A I.P.C initiated against them on the complaint of the 8th petitioner. The 8th petitioner was the wife of the first petitioner. Petitioners 2 to 7 are relatives of the first petitioner. Cognizance was taken on the basis of a final report submitted by the police after due investigation. Petitioners 1 to 7 face allegations under Section 498A read with 34 I.P.C only.

2. All the petitioners have together come before this court with the prayer that the prosecution against the petitioners 1 to 7 which is pending before the Judicial First Class Magistrate Court, Ottappalam in C.C.No.1/2006 may be quashed in as much as the petitioners have settled all their disputes and there is harmony prevailing among them. The petitioners have produced Annexure-B affidavit sworn to by the 8th petitioner in which she has categorically stated that the disputes have been settled and all issues have been harmoniously compromised. In as much as there is such settlement, the 8th petitioner has compounded the

offence allegedly committed by the petitioners 1 to 7. All of them have chosen to appear through the same counsel. The counsel vouches for the signature of the 8th petitioner in the affidavit produced as Annexure B which is duly attested by a notary public also. I am satisfied from the submissions made at the Bar as also from the averments in the petition and from Annexure B agreement that the parties have willingly and voluntarily settled their disputes. If legally possible, I am satisfied that the composition can be accepted and further proceedings dropped. The offence under Section 498A I.P.C is not compoundable. The learned counsel for the petitioners relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. The said decision is authority for the proposition that interests of justice may, at times, transcend the interests of mere law and in such situation, stipulations under Section 320 cannot be reckoned as an insurmountable fetter on the powers of the court under Section 482 Cr.P.C.

3. I am satisfied that this is an eminently fit case where such powers can be invoked to bring to premature termination the prosecution against petitioners 1 to 7 which has now lost its

meaning, significance and relevance. Permitting the proceedings to continue would certainly be an unnecessary irritant in the relationship between the parties who have settled all the disputes amicably.

4. In the result:

i) This Criminal Miscellaneous Case is allowed.

ii) C.C.No.1/2006 pending before the Judicial First Class Magistrate Court, Ottappalam against the petitioners is hereby quashed.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006